

106TH CONGRESS
1ST SESSION

S. 220

To amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance and NAFTA transitional adjustment assistance programs under that Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mr. MOYNIHAN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance and NAFTA transitional adjustment assistance programs under that Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Trade Adjustment As-
5 sistance Improvements Act of 1999”.

6 **SEC. 2. AUTHORIZATION OF CONSOLIDATED TRADE AD-**
7 **JUSTMENT ASSISTANCE.**

8 (a) AUTHORIZATION OF APPROPRIATIONS.—

1 (1) IN GENERAL.—Section 245 of the Trade
 2 Act of 1974 (19 U.S.C. 2317) is amended to read
 3 as follows:

4 **“SEC. 245. AUTHORIZATION OF APPROPRIATIONS.**

5 “There are authorized to be appropriated to the De-
 6 partment of Labor for each of the fiscal years 1999
 7 through 2001 such sums as may be necessary to carry
 8 out the purposes of this chapter.”.

9 (2) TEMPORARY EXTENSION OF NAFTA ASSIST-
 10 ANCE.—Section 250(d)(2) of such Act (19 U.S.C.
 11 2331(d)(2)) is amended by striking “June 30, 1999,
 12 shall not exceed \$15,000,000” and inserting “Sep-
 13 tember 30, 1999, shall not exceed \$30,000,000”.

14 (b) REPEAL OF NAFTA TRANSITIONAL ADJUST-
 15 MENT ASSISTANCE PROGRAM.—

16 (1) IN GENERAL.—Subchapter D of chapter 2
 17 of title II of such Act (19 U.S.C. 2331) is hereby
 18 repealed.

19 (2) CONFORMING AMENDMENTS.—(A) Section
 20 249A of such Act (19 U.S.C. 2322) is hereby re-
 21 pealed.

22 (B) The table of contents of such Act is
 23 amended—

24 (i) by striking the item relating to section
 25 249A; and

1 (ii) by striking the items relating to sub-
 2 chapter D of chapter 2 of title II.

3 (c) TERMINATION.—Section 285 of such Act (19
 4 U.S.C. 2271 note) is amended—

5 (1) by amending subsection (c)(1) to read as
 6 follows:

7 “(c)(1) Except as provided in paragraph (2), no as-
 8 sistance, vouchers, allowances, or other payments may be
 9 provided under chapter 2, and no technical assistance may
 10 be provided under chapter 3, after September 30, 2001.”;
 11 and

12 (2) in subsection (c)(2), by striking “June 30,
 13 1999,” and inserting “September 30, 1999,”.

14 (d) EFFECTIVE DATE.—

15 (1) SUBSECTIONS (a) AND (c).—The amend-
 16 ments made by subsections (a) and (c) take effect
 17 on—

18 (A) July 1, 1999; or

19 (B) the date of enactment of this Act,
 20 whichever is earlier.

21 (2) SUBSECTION (b).—The amendments made
 22 by subsection (b) take effect on—

23 (A) October 1, 1999; or

24 (B) 90 days after the date of enactment of
 25 this Act,

1 whichever is later.

2 **SEC. 3. FILING OF PETITIONS AND PROVISION OF RAPID**
 3 **RESPONSE ASSISTANCE; EXPEDITED REVIEW**
 4 **OF PETITIONS BY SECRETARY OF LABOR.**

5 (a) FILING OF PETITIONS AND PROVISION OF RAPID
 6 RESPONSE ASSISTANCE.—Section 221(a) of the Trade
 7 Act of 1974 (19 U.S.C. 2271(a)) is amended to read as
 8 follows:

9 “(a)(1) A petition for certification of eligibility to
 10 apply for adjustment assistance for a group of workers
 11 under this chapter may be filed with the Governor of the
 12 State in which such workers’ firm or subdivision is located
 13 by any of the following:

14 “(A) The group of workers (including workers
 15 in an agricultural firm or subdivision of any agricul-
 16 tural firm).

17 “(B) The certified or recognized union or other
 18 duly authorized representative of such workers.

19 “(C) Employers of such workers, one-stop oper-
 20 ators or one-stop partners (as defined in section 101
 21 of the Workforce Investment Act of 1998 (29 U.S.C.
 22 2801)), or State employment agencies, on behalf of
 23 such workers.

24 “(2) Upon receipt of a petition filed under paragraph
 25 (1), the Governor shall—

1 “(A) immediately transmit the petition to the
 2 Secretary of Labor (hereinafter in this chapter re-
 3 ferred to as the ‘Secretary’);

4 “(B) ensure that rapid response assistance and
 5 basic readjustment services authorized under other
 6 Federal laws are made available to the workers cov-
 7 ered by the petition to the extent authorized under
 8 such laws; and

9 “(C) assist the Secretary in the review of the
 10 petition by verifying such information and providing
 11 such other assistance as the Secretary may request.

12 “(3) Upon receipt of the petition, the Secretary shall
 13 promptly publish notice in the Federal Register that the
 14 Secretary has received the petition and initiated an inves-
 15 tigation.”.

16 (b) EXPEDITED REVIEW OF PETITIONS BY SEC-
 17 RETARY OF LABOR.—Section 223(a) of such Act (19
 18 U.S.C. 2273(a)) is amended in the first sentence by strik-
 19 ing “60 days” and inserting “40 days”.

20 **SEC. 4. ADDITION OF SHIFT IN PRODUCTION AS BASIS FOR**
 21 **ELIGIBILITY FOR TRADE ADJUSTMENT AS-**
 22 **SISTANCE.**

23 Section 222(a) of the Trade Act of 1974 (19 U.S.C.
 24 2272(a)) is amended to read as follows:

1 “(a) A group of workers (including workers in any
2 agricultural firm or subdivision of an agricultural firm)
3 shall be certified by the Secretary as eligible to apply for
4 adjustment assistance under this chapter pursuant to a
5 petition filed under section 221 if the Secretary deter-
6 mines that—

7 “(1) a significant number or proportion of the
8 workers in such workers’ firm or an appropriate sub-
9 division of the firm have become totally or partially
10 separated, or are threatened to become totally or
11 partially separated; and

12 “(2)(A)(i) the sales or production, or both, of
13 such firm or subdivision have decreased absolutely;

14 “(ii) imports of articles like or directly competi-
15 tive with articles produced by such firm or subdivi-
16 sion have increased; and

17 “(iii) the increase in imports described in clause
18 (ii) contributed importantly to such workers’ separa-
19 tion or threat of separation and to the decline in the
20 sales or production of such firm or subdivision; or

21 “(B) there has been a shift in production by
22 such workers’ firm or subdivision to a foreign coun-
23 try of articles like or directly competitive with arti-
24 cles which are produced by such firm or subdivi-
25 sion.”.

1 **SEC. 5. INFORMATION ON CERTAIN CERTIFICATIONS.**

2 Section 223 of the Trade Act of 1974 (19 U.S.C.
3 2273) is amended by adding at the end the following sub-
4 section:

5 “(e) The Secretary shall collect and maintain
6 information—

7 “(1) identifying the countries to which firms
8 have shifted production resulting in certifications
9 under section 222(a)(2)(B), including the number of
10 such certifications relating to each country; and

11 “(2) to the extent feasible, identifying the coun-
12 tries from which imports of articles have resulted in
13 certifications under section 222(a)(2)(A), including
14 the number of such certifications relating to each
15 country.”.

16 **SEC. 6. ENROLLMENT IN TRAINING REQUIREMENT.**

17 Section 231(a)(5)(A) of the Trade Act of 1974 (19
18 U.S.C. 2291(a)(5)(A)) is amended—

19 (1) by inserting “(i)” after “(A)”;

20 (2) by adding “and” after the comma at the
21 end; and

22 (3) by adding at the end the following:

23 “(ii) the enrollment required under clause

24 (i) occurs no later than the latest of—

25 “(I) the last day of the 16th week
26 after the worker’s most recent total sepa-

ration from adversely affected employment
which meets the requirements of para-
graphs (1) and (2);

“(II) the last day of the 8th week
after the week in which the Secretary
issues a certification covering the worker;
or

“(III) 45 days after the later of the
dates specified in subclause (I) or (II), if
the Secretary determines there are extenu-
ating circumstances that justify an exten-
sion in the enrollment period;”.

SEC. 7. WAIVERS OF TRAINING REQUIREMENTS.

(a) IN GENERAL.—Section 231(c) of the Trade Act
of 1974 (19 U.S.C. 2291(c)) is amended to read as fol-
lows:

“(c)(1) The Secretary may issue a written statement
to a worker waiving the enrollment in the training require-
ment described in subsection (a)(5)(A) if the Secretary de-
termines that such training requirement is not feasible or
appropriate for the worker, as indicated by 1 or more of
the following:

“(A) The worker has been notified that the
worker will be recalled by the firm from which the
qualifying separation occurred.

1 “(B) The worker has marketable skills as deter-
2 mined pursuant to an assessment of the worker,
3 which may include the profiling system under section
4 303(j) of the Social Security Act (42 U.S.C. 503(j)),
5 carried out in accordance with guidelines issued by
6 the Secretary.

7 “(C) The worker is within 2 years of meeting
8 all requirements for entitlement to old-age insurance
9 benefits under title II of the Social Security Act (42
10 U.S.C. 401 et seq.) (except for application therefor).

11 “(D) The worker is unable to participate in
12 training due to the health of the worker, except that
13 a waiver under this subparagraph shall not be con-
14 strued to exempt a worker from requirements relat-
15 ing to the availability for work, active search for
16 work, or refusal to accept work under Federal or
17 State unemployment compensation laws.

18 “(E) The first available enrollment date for the
19 approved training of the worker is within 45 days
20 after the date of the determination made under this
21 paragraph, or, if later, there are extenuating cir-
22 cumstances for the delay in enrollment, as deter-
23 mined pursuant to guidelines issued by the Sec-
24 retary.

1 “(F) There are insufficient funds available for
2 training under this chapter, taking into account the
3 limitation under section 236(a)(2)(A).

4 “(G) The duration of training appropriate for
5 the individual to obtain suitable employment exceeds
6 the individual’s maximum entitlement to basic and
7 additional trade readjustment allowances and, in ad-
8 dition, financial support available through other
9 Federal or State programs, including title III of the
10 Job Training Partnership Act (29 U.S.C. 1651 et
11 seq.) or chapter 5 of subtitle B of title I of the
12 Workforce Investment Act of 1998, that would en-
13 able the individual to complete a suitable training
14 program cannot be assured.

15 “(2) The Secretary shall specify the duration of the
16 waiver under paragraph (1) and shall periodically review
17 the waiver to determine whether the basis for issuing the
18 waiver remains applicable. If at any time the Secretary
19 determines such basis is no longer applicable to the work-
20 er, the Secretary shall revoke the waiver.

21 “(3) Pursuant to the agreement under section 239,
22 the Secretary may authorize the State or State agency to
23 carry out activities described in paragraph (1) (except for
24 the determination under subparagraphs (F) and (G) of
25 paragraph (1)). Such agreement shall include a require-

1 ment that the State or State agency submit to the Sec-
 2 retary the written statements provided pursuant to para-
 3 graph (1) and a statement of the reasons for the waiver.

4 “(4) The Secretary shall submit an annual report to
 5 the Committee on Finance of the Senate and the Commit-
 6 tee on Ways and Means of the House of Representatives
 7 identifying the number of workers who received waivers
 8 and the average duration of such waivers issued under this
 9 subsection during the preceding year.”.

10 (b) CONFORMING AMENDMENT.—Section
 11 231(a)(5)(C) of such Act (19 U.S.C. 2291(a)(5)(C)) is
 12 amended by striking “certified”.

13 **SEC. 8. PROVISION OF TRADE READJUSTMENT ALLOW-**
 14 **ANCES DURING BREAKS IN TRAINING.**

15 Section 233(f) of the Trade Act of 1974 (19 U.S.C.
 16 2293(f)) is amended in the matter preceding paragraph
 17 (1) by striking “14 days” and inserting “30 days”.

18 **SEC. 9. INCREASE IN ANNUAL TOTAL AMOUNT OF PAY-**
 19 **MENTS FOR TRAINING.**

20 Section 236(a)(2)(A) of the Trade Act of 1974 (19
 21 U.S.C. 2296(a)(2)(A)) is amended by striking
 22 “\$80,000,000” and all that follows through \$70,000,000
 23 and inserting “\$150,000,000”.

1 **SEC. 10. ELIMINATION OF QUARTERLY REPORT.**

2 (a) IN GENERAL.—Section 236(d) of the Trade Act
3 of 1974 (19 U.S.C. 2296(d)) is amended by striking the
4 last sentence.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section takes effect on October 1, 1999.

7 **SEC. 11. COORDINATION WITH ONE-STOP DELIVERY SYS-**
8 **TEMS, THE JOB TRAINING PARTNERSHIP**
9 **ACT, AND THE WORKFORCE INVESTMENT**
10 **ACT OF 1998.**

11 (a) COORDINATION WITH ONE-STOP DELIVERY SYS-
12 TEMS.—Section 235 of the Trade Act of 1974 (19 U.S.C.
13 2295) is amended by inserting “, including the services
14 provided through one-stop delivery systems described in
15 section 134(c) of the Workforce Investment Act of 1998
16 (19 U.S.C. 2864(c))” before the period at the end of the
17 first sentence.

18 (b) COORDINATION WITH JOB TRAINING PARTNER-
19 SHIP ACT AND WORKFORCE INVESTMENT ACT OF
20 1998.—Section 239(e) such Act (19 U.S.C. 2311(e)) is
21 amended—

22 (1) in the first sentence, by striking “or title I
23 of the Workforce Investment Act of 1998” and in-
24 serting “or under the provisions relating to dis-
25 located worker employment and training activities
26 set forth in chapter 5 of subtitle B of title I of the

1 Workforce Investment Act of 1998 (29 U.S.C. 2861
2 et seq.), as the case may be,”; and

3 (2) by inserting after the first sentence the fol-
4 lowing: “Such coordination shall include use of com-
5 mon reporting systems and elements, including com-
6 mon elements relating to participant data and per-
7 formance outcomes (including employment, retention
8 of employment, and wages).”.

9 **SEC. 12. SUPPORTIVE SERVICES.**

10 (a) IN GENERAL.—Part II of subchapter B of chap-
11 ter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2295
12 et seq.) is amended by adding at the end the following:

13 **“SEC. 238A. SUPPORTIVE SERVICES.**

14 “(a) APPLICATION.—Any adversely affected worker
15 covered by a certification under subchapter A of this chap-
16 ter may file an application with the Secretary for the pro-
17 vision of supportive services, including transportation,
18 child and dependent care, and other similar services.

19 “(b) CONDITIONS.—The Secretary may approve an
20 application filed under subsection (a) and provide support-
21 ive services to an adversely affected worker only if the Sec-
22 retary determines that—

23 “(1) the provision of such services is necessary
24 to enable the worker to participate in or complete
25 training; and

1 “(2) the provision of such services is consistent
 2 with the provision of supportive services to partici-
 3 pants under the program of employment and train-
 4 ing assistance for dislocated workers carried out
 5 under title III of the Job Training Partnership Act
 6 (29 U.S.C. 1651 et seq.), as in effect on the date
 7 of enactment of the Trade Adjustment Assistance
 8 Reform Act of 1999, or under the provisions relating
 9 to dislocated worker employment and training activi-
 10 ties set forth in chapter 5 of subtitle B of title I of
 11 the Workforce Investment Act of 1998 (29 U.S.C.
 12 2861 et seq.), as the case may be.”.

13 (b) CONFORMING AMENDMENT.—The table of con-
 14 tents of such Act is amended by inserting after the item
 15 relating to section 238 the following:

“Sec. 238A. Supportive services.”.

16 **SEC. 13. ADDITIONAL CONFORMING AMENDMENTS.**

17 (a) SECTION 225.—Section 225(b) of the Trade Act
 18 of 1974 (19 U.S.C. 2275(b)) is amended in each of para-
 19 graphs (1) and (2) by striking “or subchapter D”.

20 (b) SECTION 240.—Section 240(a) of such Act (19
 21 U.S.C. 2312(a)) is amended by striking “subchapter B
 22 of”.

1 **SEC. 14. AVAILABILITY OF CONTINGENCY FUNDS.**

2 (a) IN GENERAL.—Section 245 of the Trade Act of
3 1974 (19 U.S.C. 2317), as amended by section 2, is
4 amended—

5 (1) by striking “There are authorized” and in-
6 serting “(a) IN GENERAL.—There are authorized”;
7 and

8 (2) by adding at the end the following:

9 “(b) CONTINGENCY FUNDS.—Subject to the limita-
10 tion contained in section 236(a)(2), if in any fiscal year
11 the funds available to carry out the programs under this
12 chapter are exhausted, there shall be made available from
13 funds in the Treasury not otherwise appropriated amounts
14 sufficient to carry out such programs for the remainder
15 of the fiscal year.”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 this section take effect on—

18 (1) July 1, 1999; or

19 (2) the date of enactment of this Act,
20 whichever is earlier.

21 **SEC. 15. REAUTHORIZATION OF ADJUSTMENT ASSISTANCE**
22 **FOR FIRMS.**

23 (a) IN GENERAL.—Section 256(b) of the Trade Act
24 of 1974 (19 U.S.C. 2346(b)) is amended by striking “for
25 the period beginning October 1, 1998, and ending June

1 30, 1999” and inserting “for each of fiscal years 1999
2 through 2001”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section takes effect on—

5 (1) July 1, 1999; or

6 (2) the date of enactment of this Act,

7 whichever is earlier.

8 **SEC. 16. EFFECTIVE DATE; TRANSITION PROVISION.**

9 (a) EFFECTIVE DATE.—Except as otherwise provided
10 in this Act, this Act and the amendments made by this
11 Act take effect on—

12 (1) October 1, 1999; or

13 (2) 90 days after the date of enactment of this

14 Act,

15 whichever is later.

16 (b) TRANSITION.—The Secretary of Labor may pro-
17 mulgate such rules as the Secretary determines to be nec-
18 essary to provide for the implementation of the amend-
19 ments made by this Act.

○